

EXHIBIT “D”

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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TODD KREISLER,

Plaintiff,

v.

**Civil Action No. 12 Civ. 4921 (ALC) (MHD)
ECF CASE**

MONA'S PIZZA, INC.,
a New York corporation,
d/b/a ROSA'S PIZZA,

AFFIDAVIT OF TODD KREISLER

Defendants.

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TODD KREISLER, under penalty of perjury, deposes and states as follows:

1. I am confined to a power wheelchair due to physical impairments resulting from cerebral palsy and rheumatoid arthritis.
2. I reside at 250 East 60th Street, New York, New York. I shop at Kmart located at 1 Penn Plaza, New York, New York (hereinafter referred to as "Penn Station"). When shopping at Kmart on February 23, 2012, I ordered food from Mona's Pizza d/b/a Rosa's Pizza (hereinafter referred to as "Rosa's Pizza").
3. After ordering food from the counter, I went down a ramp within Rosa's Pizza, presumably designed for patrons in wheelchairs. I then sat at the seating within Rosa's Pizza and began my meal. During the course of the meal, I had to use the bathroom. I went to use the restroom located within Rosa's Pizza; however, I could not enter the restroom because the restroom door was not wide enough for my motorized wheelchair to enter. Further, there was no insulation under the sink.
4. This caused me discomfort and mental anguish because I was forced to leave Rosa's Pizza during my meal to go to an accessible restroom within Penn Station. Penn Station was crowded, and it took me some time to reach an accessible bathroom. I suffered discomfort, mental anguish, and emotional distress due to the narrow width of the restroom door within Rosa's Pizza which prevented me from entering the restroom.
5. Although I was unable to enter the restroom, I was able to look into the restroom which had a rear and side grab bar, as well as what appeared to be adequate space within the restroom for my motorized wheel chair to maneuver within the restroom.

6. The food and service at Rosa's Pizza is very good. Unfortunately I have been discriminated against due to the fact that Rosa's Pizza has not widened the restroom door to provide access to wheelchair patrons or placed insulation under the sink.
7. I intend to dine at Rosa's Pizza again, and I am concerned that if I have to use the restroom again, I may not be able to make it to another restroom in time. Widening the restroom door is a relatively simple task, and I request that the Court order Rosa's Pizza to place insulation under the sink and to widen the door to a width of 36 inches.

Dated: September 15, 2012
New York, New York

I HAVE READ THE FOREGOING AND THE FOREGOING IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Todd Kreiser
AFFIANT

STATE OF NEW YORK
COUNTY OF NEW YORK

BEFORE ME, the undersigned authority, personally appeared Todd Kreiser, who swears and deposes that he, has read the Affidavit and that the information in the Affidavit is correct to the best of his knowledge and belief.

SWORN TO AND SUBSCRIBED before me this 19 day of Sep 2012.

Jaiantie Dindayal
STATE OF NEW YORK,
NOTARY PUBLIC

PRINT NAME:

Personally known by me, or

Produced Identification:

Type of Identification:

My Commission Expires:-

